

HON'BLE THE CHIEF JUSTICE SRI G.S. SINGHVI

Writ Petition No.2172 of 2001

Between:

M/s.Parvathi Padmavathi Theatres,
Rajahmundry, Represented by its
Managing Partner Sri GVV Satyanarayana

... Petitioner

And

The Government of A.P., rep. by
Principal Secretary, Home Department
(Genl.A), Hyderabad and another

... Respondents

:: ORDER ::

Counsel for Petitioner:

Shri B. Krishna Mohan

Counsel for the Respondents:

Government Pleader for
Home

July 18, 2007

M/s. Parvathi Padmavathi Theatres, represented by its Managing Partner, Shri G.V.V. Satyanarayana, has filed this petition for quashing orders dated 16.3.2000 and 12.12.2000 passed by Joint Collector, Kakinada, East Godavari District (respondent No.2 herein) and the State Government respectively under Andhra Pradesh Cinemas (Regulation) Act, 1955 and the rules framed thereunder.

For the last 15 years, the petitioner has been screening the films and pictures. It is running a mini-theatre situated in the outskirts of Rajahmundry Municipal Corporation (for short, 'the Corporation'). On 19.11.1999, Mandal Revenue Officer, Rajahmundry visited the theatre and seized some posters, which were said to be obscene. He submitted a report to this effect to Sub-Collector, Rajahmundry, who forwarded the same to respondent No.2. The latter issued notice dated 17.12.1999 to the petitioner to show cause against the proposed cancellation of licence. The petitioner denied the allegation of exhibiting obscene posters. After considering its reply, respondent No.2 vide his order dated 16.3.2000 cancelled the petitioner's licence by recording the following observations:

"The management has caused publication of obscene wall posters in the public places and that previously the licence of the theatre was cancelled for causing screening of Blue Film bits and that they are running the theatre as per the interim orders of the Hon'ble High Court of A.P., Hyderabad.

The management of the said theatre has submitted their explanation in the reference 4th read above stating that they have not caused any obscene wall posters, and criticizing the Revenue Officials i.e. M.R.O., Rajahmundry and Sub-Collector, Rajahmundry that if the wall posters were obscene, they should file a criminal case against them.

The management has further stated that during the year 1997 their theatre was seized by the then Sub-Collector, Rajahmundry without informing the matter to the Joint Collector and issued show cause notice to them and that they have approached the Hon'ble High Court of Andhra Pradesh, Hyderabad and obtained interim stay and that they are running the theatre.

As the matter stood thus, the Inspector of Police, Rajahmundry (T) has also sent a report to this office in the reference 3rd cited. As seen from the report, it reveals that the

management of the said theatre was said to be caused screening of blue films and that a criminal case was filed against the manager and also against Projector Operator in C.C.No.111/99 on the file of III Addl. Judicial I Class Magistrate, Rajahmundry under Cr.No.445/98 and further requested to take necessary action for cancellation of licence of the said theatre as the management of the said theatre is in the habit of screening blue films and spoiling the minds of youth and creating a bad climate in the society.”

The petitioner unsuccessfully challenged the above mentioned order inasmuch as the appeal preferred by it was dismissed by the State Government vide order dated 12.12.2000.

The petitioner has questioned orders dated 16.3.2000 and 12.12.2000 mainly on the ground of arbitrary exercise of power by respondent No.2 and the appellate authority. According to the petitioner, before recording an adverse finding, neither of the officers considered the reply filed by him and the grounds taken in the memorandum of appeal and, on that account, opportunity of representation given to him was reduced to an empty formality.

I have heard learned counsel for the parties and perused the record. In my opinion, the appellate order is liable to be set aside only on the ground that the same does not satisfy the test of a speaking order. The question whether a public authority entrusted with the task of deciding a lis or rights of the parties is required to record reasons in support of its decision and such reasons need be communicated to the affected person is no longer res integra and must be treated as settled by a catena of judgments of the Supreme Court -- **Harinagar Sugar Mills v. Shyam Sundar**^[1], **M.P.Industries Limited v. Union of India**^[2], **Bhagat Raja v. Union of India**^[3], **Mahavir Prasad Santoshkumar v. State of U.P.**^[4], **Travancore Rayons v. UOI**^[5], **Messrs Ajanta Industries v. Central Board of Direct Taxes, New Delhi**^[6], **Messrs Siemens Engineering & Manufacturing Company v. Union of India**^[7], **S.N. Mukherjee v.**

Union of India^[8], **Charan Singh v. Healing Touch Hospital**^[9]

State of Punjab v. Bagh Singh^[10], **State of Orissa v. Dhaniram**

Luhar^[11], **State of Rajasthan v. Sohan Lal**^[12], **Cyril Lasrado v.**

Juliana Maria Lasrado^[13], **Mangalore Ganesh Beedi Works v.**

CIT^[14] **and Manorama Sachan v. Lucknow Development**

Authority^[15]. In **S.N. Mukherjee v. Union of India** (supra) the

Constitution Bench of the Supreme Court noticed the legal position obtaining in Australia, England, United States of America, referred to a large number of judicial precedents on the subject and laid down the following proposition:

“... Keeping in view the expanding horizon of the principles of natural justice, we are of the opinion, that the requirement to record reason can be regarded as one of the principles of natural justice which govern exercise of power by administrative authorities. The rules of natural justice are not embodied rules. The extent of their application depends upon the particular statutory framework whereunder jurisdiction has been conferred on the administrative authority. With regard to the exercise of a particular power by an administrative authority including exercise of judicial or quasi-judicial functions the legislature, while conferring the said power, may feel that it would not be in the larger public interest that the reasons for the order passed by the administrative authority be recorded in the order and be communicated to the aggrieved party and it may dispense with such a requirement. It may do so by making an express provision to that effect as those contained in the Administrative Procedure Act, 1946 of U. S. A. and the Administrative Decisions (Judicial Review) Act, 1977 of Australia whereby the orders passed by certain specified authorities are excluded from the ambit of the enactment. Such an exclusion can also arise by necessary implication from the nature of the subject matter, the scheme and the provisions of the enactment. The public interest underlying such a provision would outweigh the salutary purpose served by the requirement to record the reasons. The said requirement cannot, therefore, be insisted upon in such a case.”

In **Testeels Limited v. N.M. Desai, Conciliation Officer and**
another^[16], a Full Bench of the Gujarat High Court made a lucid

exposition of law on the subject and we can do no better than to reproduce the relevant paragraphs of that judgment, which are as under:

“There are two strong and cogent reasons why we must insist that every quasi-judicial order must disclose reasons in support of it. The necessity of giving reasons flows as a necessary corollary from the rule of law which constitutes one of the basic principles of our constitutional set-up. Our Constitution posits a welfare State in which every citizen must have justice—social, economic and political and in order to achieve the ideal of welfare State, the State has to perform several functions involving acts of interferences with the free and unrestricted exercise of private rights. The State is called upon to regulate and control the social and economic life of the citizen in order to establish socio-economic justice and remove the existing imbalance in the socio-economic structure. The State has, therefore, necessarily to entrust diverse functions to administrative authorities which involve making of orders and decisions and performance of acts affecting the rights of individual members of the public. In exercise of some these functions, the administrative authorities are required to act judicially. Now what is involved in a judicial process is well settled and as pointed out by Shah J. in *Jaswant Sugar Mills’s case*, AIR 1963 SC 677 *supra*, a quasi-judicial decision involves the following three elements:

- (1) It is in substance a determination upon investigation of a question by the application of objective standards to facts found in the light of pre-existing legal rules;
- (2) It declares rights or imposes upon parties obligations affecting their civil rights; and
- (3) The investigation is subject to certain procedural attributes contemplating an opportunity of presenting its case to a party, ascertainment of facts by means of material if a dispute be on question of fact, and if the dispute be on question of law, on the presentation, of legal argument, and a decision resulting in the disposal of the matter on findings based upon those questions of law and fact.

Another reason of equal cogency which weighs with us in spelling out the necessity for giving reasons is based on the power of judicial review which is possessed by the High Court under Article 226 and the Supreme Court under Article 32. The High Court under Article 226 and the Supreme Court under Article 32 have the power to quash by certiorari a quasi-judicial order made by an administrative officer and this power of review exercisable by issue of certiorari can be effectively exercised only if the order is a

speaking order and reasons are given in support of it. If no reasons are given, it would not be possible for the High Court or the Supreme Court exercising its power of judicial review to examine whether the administrative officer has made any error of law in making the order. It would be the easiest thing for an administrative officer to avoid judicial scrutiny and correction by omitting to give reasons in support of his order. The High Court and the Supreme Court would be powerless to interfere so as to keep the administrative officer within the limits of the law. The result would be that the power of judicial review would be stultified and no redress being available to the citizen, there would be insidious encouragement to arbitrariness and caprice. The power of judicial review is a necessary concomitant of the rule of law and if judicial review is to be made an effective instrument for maintenance of the rule of law, it is necessary that administrative officers discharging quasi-judicial functions must be required to give reasons in support of their orders so that they can be subject to judicial scrutiny and correction.”

In the appeal preferred by it against the order of respondent No.2, the petitioner had taken the following points:

“1. xxx

2. The JC has to verify minutely that the appellant published the obscene wall posters in public place or not to that effect there is no evidence and proof and there is no criminal case against the said theatre and they have not seized the obscene wall posters with independent mediators and there is no proof on it.
3. regarding cancellation order that the JC simply cancelled the B.Form licence of the theatre based on the Sub-Collector's report and there is no proof and enquiry. In fact, the III Town P.S., Rajahmundry registered cases against the management by the pressure of the Sub-Collector, Rajahmundry, since two years U/sec.292, 293 IPC. But the cases were acquitted in favour of the appellant by the III Addl. J.M.F.C., Rajahmundry.
4. The JC ought to have seen that even assuming without admitting the appellant committed any irregularity, he should have imposed some fine instead of cancellation of licence.
5. The JC did not give any opportunity to the appellant to putforth his explanation in person or through his Advocate.
6. The reason given by the JC in his impugned order is baseless and unsustainable and the appellant may be permitted to raise any other grounds that may be urged at the time of hearing of the appeal.”

Though order dated 12.12.2000 makes a detailed mention of

the background in which order dated 16.3.2000 was passed by respondent No.2, the Principal Secretary to Government, Home (General-A) Department, who decided the appeal, did not advert to any of the points taken by the petitioner and dismissed the appeal by observing that the charges against the licensee are very serious in nature and relates to exhibition of obscene and blue scenes.

In my opinion, while disposing of the appeal preferred by the petitioner, the officer concerned was duty bound to deal with the points/grounds taken in the memo of appeal and decided the same by assigning reasons howsoever briefly and his failure to do has resulted in clear infraction of the rules of natural justice.

Hence, the writ petition is allowed. Order dated 12.12.2000 passed by the State Government is set aside with a direction to the appellate authority to pass fresh order by assigning reasons.

G.S. SINGHVI, CJ

July 18, 2007

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[\[1\]](#) AIR 1961 SC 1669

[\[2\]](#) AIR 1966 SC 671

[\[3\]](#) AIR 1967 SC 1606

[\[4\]](#) AIR 1970 1302

[\[5\]](#) AIR 1971 SC 862

[\[6\]](#) AIR 1976 SC 437

[\[7\]](#) AIR 1976 SC 1785

[\[8\]](#) AIR 1990 SC 1984

[\[9\]](#) (2000) 7 SCC 668

[\[10\]](#) (2004) 1 SCC 547

[\[11\]](#) (2004) 5 SCC 568

- [\[12\]](#) (2004) 5 SCC 573
- [\[13\]](#) (2004) 7 SCC 431
- [\[14\]](#) (2005) 5 SCC 75
- [\[15\]](#) (2005) 9 SCC 425
- [\[16\]](#) AIR 1970 GUJARAT 1